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Kevin G. Rooney
Wood, Herron & Evans, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

In re Application of	:	
WILLIAMSON, et al.	:	
Application No.: 09/890,177	:	
PCT No.: PCT/US98/20478	:	DECISION ON PETITION
Int. Filing Date: 05 October 1998	:	
Priority Date: None	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: BIOP-02	:	
For: APPARATUS AND METHOD FOR	:	
HARVESTING AND HANDLING TISSUE:	:	
SAMPLES FOR BIOPSY ANALYSIS	:	

This decision is in response to applicant's "Petition For Revival of an International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 27 July 2001 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 October 1998, applicant filed international application PCT/US98/20478. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 May 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2001.

On 05 April 2001, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 27 July 2001, applicant filed the present petition accompanied by: a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371;" a check for \$4098.00 as payment for the basic national fee and other fees, a check for \$1240.00 as payment of the petition fee under 37 CFR 1.17(m), a declaration and power of attorney signed by the inventors and a change of power of attorney and/or address letter.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the basic national fee. Applicant has provided this payment along with the present petition.

As to Item (2), applicant paid the \$1240.00 petition fee.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

It is noted that the first inventor is listed as Warren N. WILLIAMSON in the published international application and Warren P. WILLIAMSON IV on the executed declaration filed 27 July 2001. In addition, the second inventor is listed as Stephen WHITLACH in the published international application and Stephen WHITLATCH on the executed declaration. These discrepancies raise the question as to whether the discrepancies are the result of a typographical errors or name changes. In order to continue processing of the application applicant is required to provide an explanation for the discrepancies. If the discrepancies are the result of name changes, a petition under 37 CFR 1.182 is required. See MPEP 605.04(c) for further requirements.

CONCLUSION

For the reasons stated above, the petition for revival is GRANTED.

Applicant is hereby afforded TWO MONTHS from the mail date of this decision to furnish the proper reply as indicated above. Failure to file the reply within the time period provided will result in abandonment. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office



Boris Milef
Legal Examiner
PCT Legal Office



Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459